

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE
ZONING MAP AMENDMENT REPORT (#FZC-19-21)
MARILYN NOONAN
DECEMBER 24, 2019**

I. GENERAL INFORMATION

A. Project Description

This is a report to the Flathead County Planning Board and Board of Commissioners regarding a request by Marilyn Noonan, for property located within the Highway 93 North Zoning District. The proposed amendment, if approved, would change the zoning of the subject property from *SAG-10 (Suburban Agricultural)* to *B-2 (General Business)*.

B. Application Personnel

1. Owner/Applicant

Marilyn Noonan
PO Box 10171
Kalispell, MT 59904

C. Process Overview

Documents pertaining to the zoning map amendment are available for public inspection in the Flathead County Planning and Zoning Office located in the South Campus Building at 40 11th Street West in Kalispell.

1. Land Use Advisory Committee/Council

This property is not located within the jurisdiction of a Land Use Advisory Committee.

2. Planning Board

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on January 8, 2020 at 6:00 P.M. in the 2nd Floor Conference Room of South Campus Building located at 40 11th Street West in Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration.

3. Commission

The Commissioners will hold a public hearing on the proposed zoning map amendment on February 13, 2020. Prior to the Commissioner's public hearing, documents pertaining to the zoning map amendments will also be available for public inspection in the Office of the Board of Commissioners at 800 South Main Street in Kalispell.

II. PROPERTY CHARACTERISTICS

A. Subject Property Location and Legal Description

The property is located at 132 Tronstad Road near Kalispell, MT (see Figure 1 below) and is approximately 4.83 acres. The property can be legally described as follows:

A tract of land lying in Government Lot 4 of Section 18, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana described as follows:

Commencing at the Northwest corner of said Lot 4; thence Easterly upon the Northerly boundary of said Government Lot 4, a distance of 80.00 feet to the Easterly right of way line of U.S. Highway No. 93; thence South 00°06'00" West upon the Easterly right of way line of said U.S. Highway No. 93, a distance of 30.00 feet to the Southerly right of way of the County Road and True Point of Beginning;

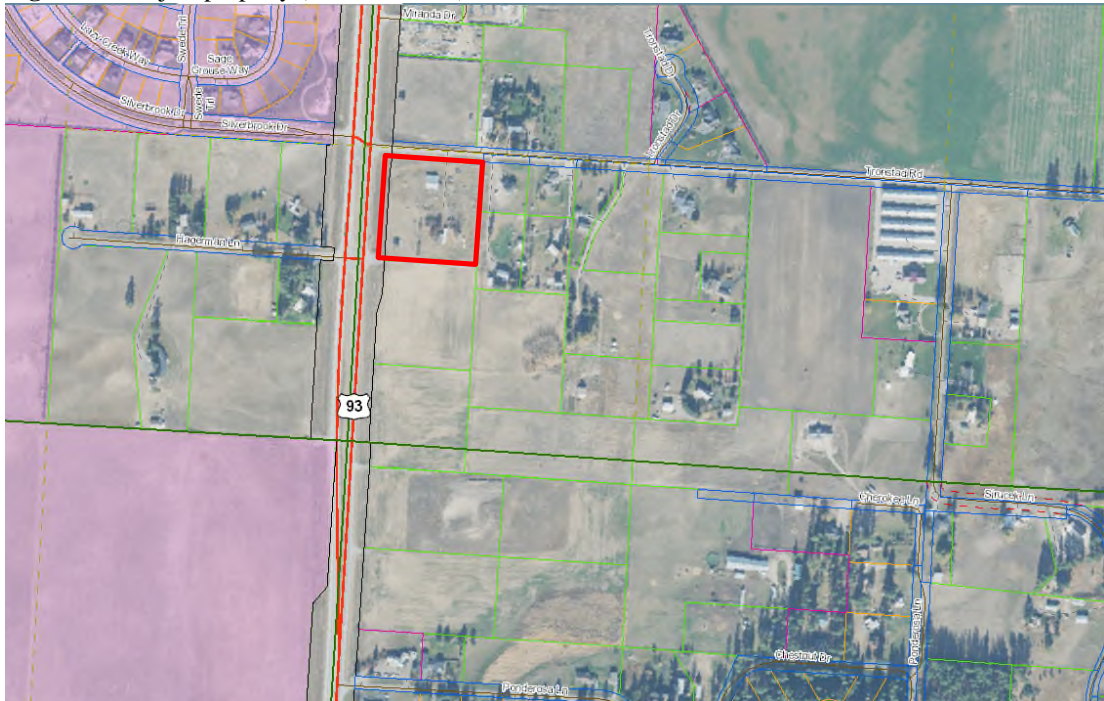
thence South 00°06'00" West upon the Easterly right of way of U.S. Highway No. 93, a distance of 466.90 feet; thence Easterly and parallel with the Southerly boundary of the right of way of the County Road, a distance of 466.90 feet; thence North 00°06'00" East and parallel with the Easterly boundary of said U.S. Highway No. 93 a distance of 466.90 feet to the Southerly right of way of the County Road; thence Westerly upon the Southerly right of way of the County Road, a distance of 466.90 feet to the Place of Beginning.

Excepting Therefrom that portion deeded to the State of Montana for highway purposes, recorded April 30, 1956 in Book 387, Page 324 as Doc. No. 2871, records of Flathead County, Montana

Also Excepting Therefrom that portion deeded to the State of Montana for highway purposes, recorded March 5, 1991 as Dec. No. 91-064-10300, records of Flathead County, Montana.

Also Excepting Therefrom that portion deeded to the State of Montana for highway purposes, recorded January 24, 2002 as Doc. No. 2002-024-10020 records of Flathead County, Montana.

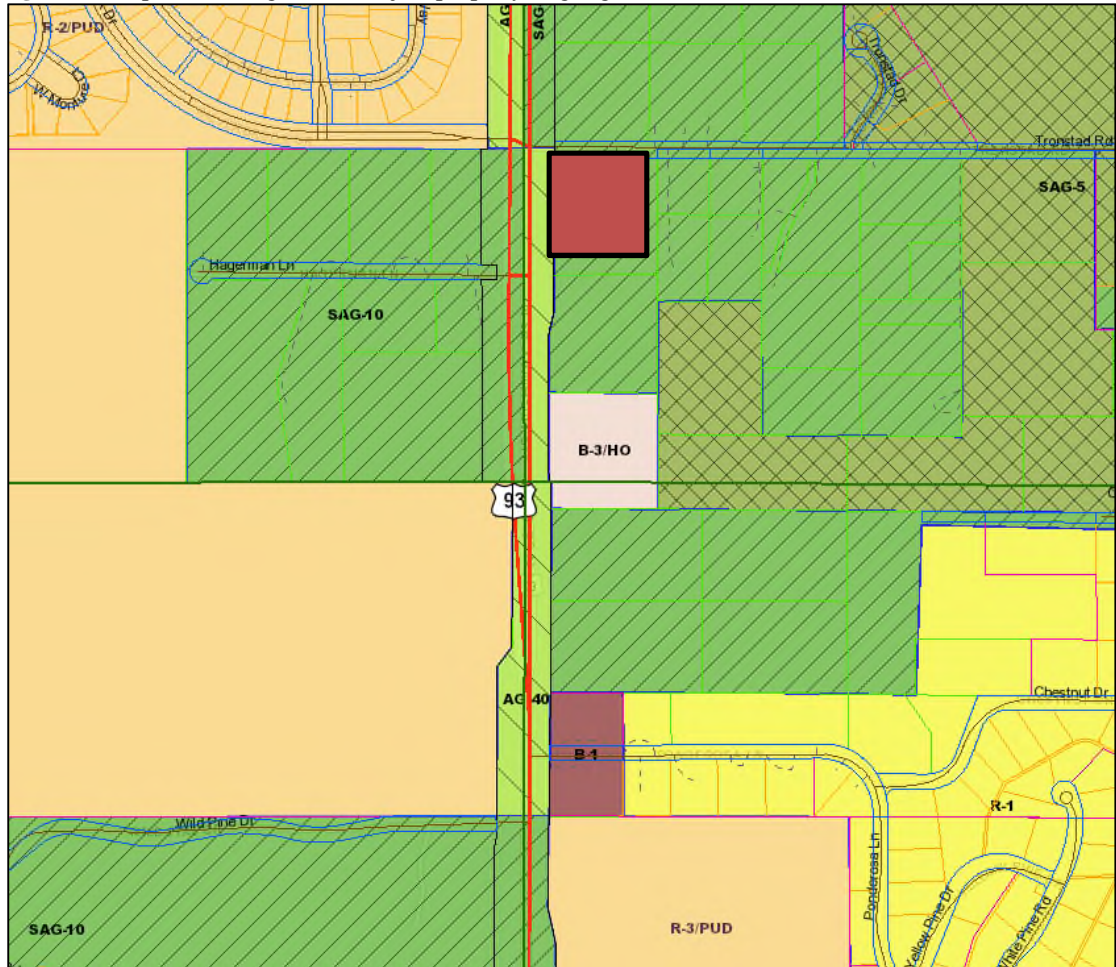
Figure 1: Subject property (outlined in red)



B. General Character of and Reason for Amendment

The property is located at the southeast corner of U.S Highway 93 and Tronstad Road. The property contains a current business and is relatively flat open space. The application states the reason for the request as, the location at the corner of Highway 93 and Tronstad would appear to be a perfect location for the B-2 zone.

Figure 2: Proposed zoning on the subject property (highlighted in red)

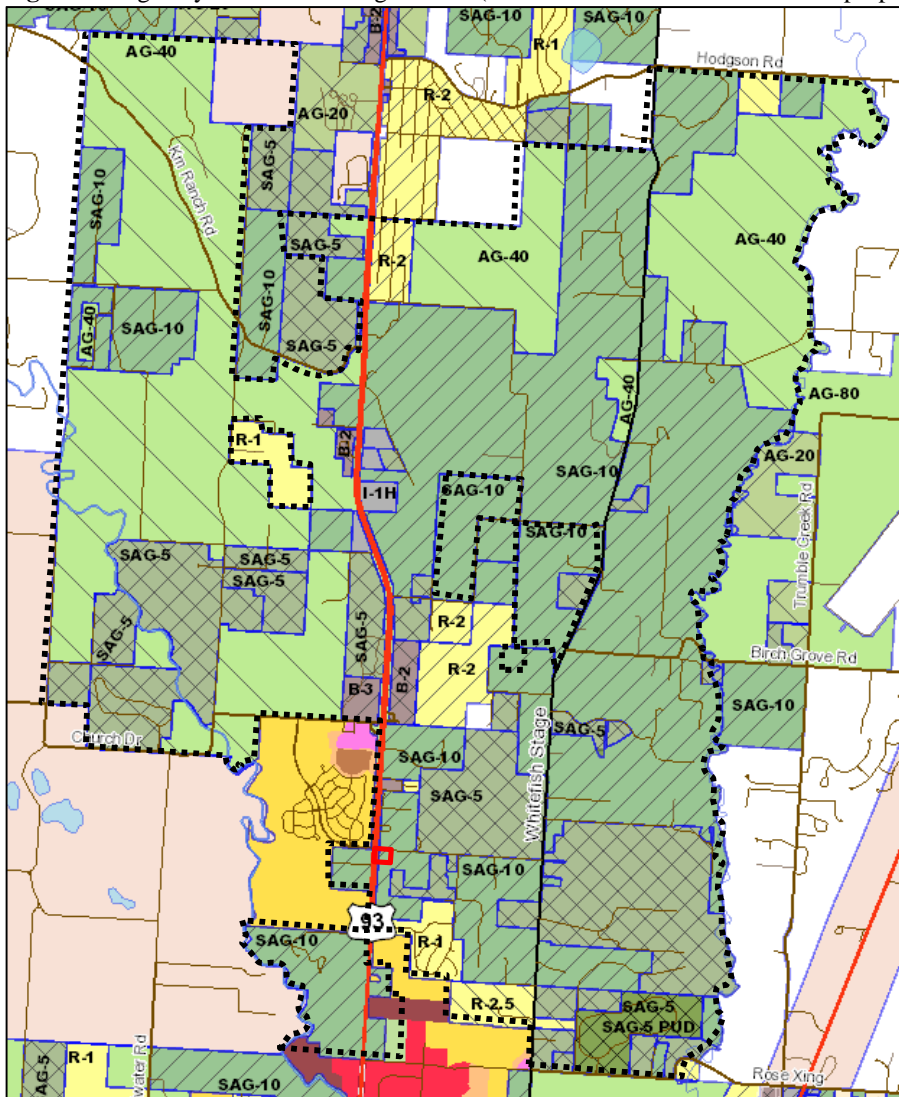


C. Adjacent Zoning and Character of the Overall Zoning District

The property is located within the Highway 93 North Zoning District, which is a 12,775-acre zoning district that covers much of the area between Whitefish and Kalispell. Looking at the zoning within a half mile of the subject property and further north and south along Highway 93 the character of the Highway 93 corridor is a mixture of suburban agricultural, highway industrial, commercial and residential zoning. The property is located along Highway 93 and directly adjacent to the property is generally residential and agricultural which are zoned SAG-10, SAG-5 and R-2.

To the south along the highway is B-1 and B-3/HO zoning with a couple of businesses and a golf course zoned SAG-10. The City of Kalispell extends passed Tronstad Road to Church Drive, just to the north of the property (Silverbrook Subdivision). The zoning within the Silverbrook Subdivision is a mixture of B-1/PUD at the corner of Church and Highway 93 and R-4/PUD and R-2 /PUD.

Figure 3: Highway 93 North Zoning District (outlined with dashed black line & property outlined in red)



D. Public Services and Facilities

Sewer: N/A
 Water: N/A
 Electricity: Flathead Electric Cooperative
 Natural Gas: Northwestern Energy
 Telephone: CenturyTel
 Schools: Kalispell School District
 Flathead High School District
 Fire: West Valley Fire District
 Police: Flathead County Sheriff

III. COMMENTS

A. Agency Comments

1. Agency referrals were sent to the following agencies on November 8, 2019:

- Montana Department of Transportation
 - Flathead County Road Department
 - Flathead County Solid Waste
 - Flathead City-County Health Department
 - Flathead County Weeds & Parks Department
 - Bonneville Power Administration
 - City of Kalispell Planning Department
 - Flathead High School District
 - Kalispell School District
 - West Valley Fire District
2. The following is a summarized list of agency comment received as of the date of the completion of this staff report:
- Flathead County Road & Bridge Department
 - Comment: “At this point the County Road Department does not have any comments on this request.” Letter dated November 15, 2019
 - Flathead County Solid Waste District
 - Comment: “The District requests that all solid waste generated at the proposed location be hauled by a private licensed hauler. Evergreen Disposal is the licensed (PSC) Public Service Commission licensed hauler in this area.” Letter dated November 13, 2019
 - Bonneville Power Administration
 - Comment: “At this time, BPA does not object to this request, as the property edge is located 2.4 miles away from the nearest BPA transmission lines or structures.” Email received November 19, 2019

B. Public Comments

1. Adjacent property notification regarding the proposed zoning map amendment was mailed to property owners within 150 feet of the subject property on June 19, 2019. Legal notice of the Planning Board public hearing on this application was published in the June 23, 2019 edition of the Daily Interlake.

Public notice of the Board of County Commissioners public hearing regarding the zoning map amendment will be physically posted on the subject property and within the zoning district according to statutory requirements found in Section 76-2-205 [M.C.A]. Notice will also be published once a week for two weeks prior to the public hearing in the legal section of the Daily Interlake. All methods of public notice will include information on the general character of the proposed zoning map amendment, and the date, time, and location of the public hearing before the Flathead County Commissioners on the requested zoning map amendment.

2. Public Comments Received

As of the date of the completion of this staff report, no public comments have been received regarding the requested zoning map amendment. It is anticipated any member of the public wishing to provide comment on the proposed zoning map amendment may do so at the Planning Board public hearing scheduled for January 8, 2020 and/or the Commissioner’s Public Hearing. Any written comments received following the

completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing(s).

IV. EVALUATION OF PROPOSED AMENDMENT

Map amendments to zoning districts are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing zoning amendments are found in Section 2.08.040 of the Flathead County Zoning Regulations and 76-2-203 M.C.A.

A. Build-Out Analysis

Once a specific zoning designation is applied in a certain area there are certain land uses that are permitted or conditionally permitted. A build-out analysis is performed to examine the maximum potential impacts of full build-out of those uses. The build-out analysis is typically done looking at maximum densities, permitted uses, and demands on public services and facilities. Build-out analyses are objective and are not best or worst case scenarios. Without a build-out analysis to establish a foundation of understanding, there is no way to estimate the meaning of the proposed change to neighbors, the environment, future demands for public services and facilities and any of the evaluation criteria, such as impact to transportation systems. Build-out analyses are simply establishing the meaning of the zoning map amendment to the future of the community to allow for the best possible review.

Per Section 3.19 of the Flathead County Zoning Regulations (FCZR), B-2 is defined ‘*A business district to provide for those retail sales and service functions and operations that are typically characterized by outdoor display, storage, and/or sale of merchandise, by major repair of motor vehicles, and by outdoor commercial amusement and recreational activities. This district should also serve the general needs of the tourist and traveler.*’

The SAG-10 designation is defined in Section 3.07 FCZR as, ‘*A district to provide and preserve agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development.*’

The permitted uses and conditional uses for the proposed and existing zoning contain several differences. The amendment would increase the number of permitted uses from 21 to 34 while decreasing the conditional uses from 23 to 13.

The permitted uses listed in both the SAG-10 and B-2 are as follows:

- Cellular communications tower.
- Day care.
- Nursery, landscaping materials.
- Park and publicly owned recreational facility.
- Public transportation shelter station.
- Public utility service installation.

The conditional uses listed in both the SAG-10 and B-2 are as follows:

- Animal hospital, veterinary clinic.
- Electrical Distribution station.
- Golf driving range and putting course.
- Temporary building, structure, or use.
- Water storage facility.

There is one conditional use listed within the SAG-10 but is allowed as permitted uses in B-2 is a, Church and other place of worship.

The bulk and dimensional requirements within the current zoning requires a 20 foot setback from front, rear, side-corner and side boundary line for principal structures and a setback of 20 feet for the front and side-corner and 5 feet from the rear and side for accessory structures. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials for both the proposed and current zoning. For SAG-10 the permitted lot coverage is 20% and maximum height is 35 feet.

The proposed zoning requires a setback of 20 feet from front, and side-corner boundary lines, and 15 feet from rear boundary lines and 5 feet from side boundary lines. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 10 foot setback is required from county roads classified as collector or major/minor arterials for both the proposed and current zoning. The maximum building height is 35 feet and there is no permitted lot coverage.

The existing zoning requires a minimum lot area of 10 acres. The subject property totals 5 acres therefore no additional lot could currently be created. The proposed zoning minimum lot area is 7,500 square feet. It is likely that approximately 30% of the remaining 4.83 acres of property would be required for infrastructure. Therefore, it is likely that at full build-out the proposed zoning would allow approximately 20 lots for commercial use. However each lot could have multiple uses.

The requested zone change has the potential to increase density through subsequent subdivision in the future. The bulk and dimensional requirements are different and the number of permitted uses would increase while the number of conditional uses would decrease.

B. Evaluation of Proposed Amendment Based on Statutory Criteria (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

1. Whether the proposed map amendment is made in accordance with the Growth Policy/Neighborhood Plan.

The Flathead County Growth Policy Designated Land Uses Map identifies the subject property as ‘Suburban Agricultural.’ The proposed B-2 zoning classification would appear to contrast with the current designations. However, Chapter 10 Part 3: Land Uses Maps of the Growth Policy under the heading Designated Land Use Maps specifically states, “This map depicts areas of Flathead County that are legally designated for particular land uses. This is a map which depicts existing conditions. The areas include zoning districts which are lumped together by general use rather than each specific zone and neighborhood plans. Further information on particular land uses in these areas can be obtained by consulting the appropriate zoning regulations or neighborhood plan document. The uses depicted are consistent with the existing regulations and individual plan documents. This map may be changed from time to time to reflect additional zoning districts, changes in zoning districts, map changes and neighborhood plans as they are adopted. Since this map is for informational purposes, the Planning Staff may update the same to conform to changes without the necessity of

a separate resolution changing this map.” Staff interprets this to mean the Designated Land Use Map is not a future land use map that implements policies, but rather a reflection of historic land use categories. If the zoning map amendment is approved the Designated Land Use Map can be updated by staff to reflect changes made by the County Commissioners based on goals and policies of the Growth Policy.

Part 6 of Chapter 2 the Growth Policy states, *‘By efficiently locating businesses so as to mitigate the negative impacts on views, traffic, and the identity of the local community, a diverse economy with a positive impact on the local community by providing goods and services where they are needed can be promoted. Inefficiently located businesses can be a high-impact burden to both the human and natural environment, and the cumulative costs to the community can outweigh the benefits.’*

- The proposed zone change is in a well-traveled transportation corridor across the street from properties that have been annexed into the City of Kalispell.

The Part 6 of the Growth Policy: *‘Commercial land uses are unique for their ability to adapt and blend with other land uses. Mixing uses is especially appropriate when mutually negative impacts are mitigated. When land is visible, accessible and relatively affordable, there are limitless possibilities for commercial uses to match the local community character.’*

- The proposed B-2 zoning consists of a variety of higher density residential and general commercial uses. This potential mixed use provides a transitional zone between the agricultural and rural residential zones to the north and east and the commercial zones along the Highway 93 corridor.

Chapter 5 states, *‘accessible commercial lands, are a critical component of rebuilding and maintaining a diverse economy;’*

- The proposed commercial zoning is located in an easily accessible area along the Highway 93 corridor.
- ❖ **G.2** – *Preserve the rights of property owners to the use, enjoyment and value of their property and protect the same rights for all property owners.*
- ❖ **G.6** – *Adequate commercial land that is safely accessible and efficiently serviceable.*
 - The property is located on U.S. Highway 93, between the cities of Kalispell and Whitefish, with primary access via Tronstad Road, making the property safely accessible and efficiently serviceable.
- **P.6.3** – *Provide ample commercial land designation to promote affordability.*
 - If approved this zoning map amendment would add almost 5 acres to the land currently designated commercial in the County.
- ❖ **G.7** – *Consider existing community character in commercial land development.*
 - A discussion of the character of the community can be found below.
- **P.7.3** – *Encourage small-scale, impact-mitigated and compatible commercial developments in accessible, developing rural areas with good access and away from urban areas.*

- The proposed B-2 zone would allow for commercial development on a larger scale in a semi-rural area with good access off Highway 93 via Tronstad Road.
- ❖ **G.21** – *A healthy and vibrant Flathead County economy that provides diversity and living-wage job opportunities and is comprised of sustainable economic activities and private sector investments.*
 - **P.21.1** – *Provide adequate land area designated for commercial and industrial use to promote affordability, creating entrepreneurialism and/or businesses relocation to Flathead County.*
 - Approval of this zoning map amendment would provide additional land area designated for commercial use.
- ❖ **G.31** – *Growth that does not place unreasonable burden on the ability of the school district to provide quality education.*
 - Discussion on how the proposed zoning map amendment furthers the provision of schools and other public requirements can be found below.
- ❖ **G.32** – *Maintain consistently high level of fire, ambulance and emergency 911 response services in Flathead County as growth occurs.*
- ❖ **G.33** – *Maintain a consistently high level of law enforcement services in Flathead County as growth occurs.*
 - This report contains additional discussion on the adequacy of emergency service below.

Finding #1: The proposed zoning map amendment appears to be made in accordance with the Flathead County Growth Policy because it will provide additional land area designated for commercial use, and allow for commercial development in an area with good access off Highway 93 via Tronstad Road.

2. Whether the proposed map amendment is designed to:

a. Secure safety from fire and other dangers;

The subject property is located within the West Valley Fire District. The nearest fire and emergency response center is located approximately 1.4 road miles southwest of the property, on Whitefish Stage. The West Valley Fire Department, who did not provide comments on this proposal, would respond in the event of a fire or medical emergency. Access to the subject property would be directly from Tronstad Road, a paved two lane county collector. The subject property is not located within the Wildland Urban Interface (WUI) or a county wide priority area.

According to FEMA FIRM Panel 30029C1415J, the property is located within an unshaded Zone X an area determined to be outside the 0.2% annual chance flood hazard.

Finding #2: The proposed map amendment will not impact safety from fire and other danger because the property is not located in the WUI and is located approximately 1.4 road miles from the nearest fire station within the West Valley Fire District, is located on a U.S. Highway and county collector and not located within the 100 year floodplain.

b. Promote public health, public safety, and general welfare;

As previously stated, the subject property is located within the West Valley Fire District. The West Valley Fire Department would respond in the event of a fire or medical emergency and the Flathead County Sheriff's Department provides police services to the subject property. Tronstad Road and Highway 93 appear adequate to provide ingress and egress for emergency vehicles which would help to ensure adequate public health and safety. Permitted and conditional uses in B-2 zone would serve to protect and promote public health, safety and general welfare.

Finding #3: The proposed zoning map amendment appears to have minimal negative impacts on public health, safety and general welfare because the property is served by the West Valley Fire Department, Flathead County Sheriff and future development would comply with the permitted and conditional uses in the B-2 zone.

c. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

The property is located at the intersection of Tronstad Road and Highway 93 with primary access to the property is off Tronstad. Tronstad Road is a two lane county collector within a 60 foot easement. There are no recent traffic counts for Tronstad Road. Highway 93 is a 4-lane paved highway with a 200 plus foot easement. The average daily traffic along Highway 93 near the subject property in 2017 was 15,654.

Staff utilized the Institute of Transportation Engineers Trip Generation Manual to determine the average daily trip (ADT) generation for the commercial uses. According to the Trip Manual the average trip generation rate on a Saturday for hotel is 8.17 trips per occupied hotel room (Saturday would generate the most traffic). A hotel estimating roughly 40 units, would account for an ADT of approximately 327. An office park could generate 195.11 ADT per acre. The proposal could generate 942 ADT if all 4.83 acres are utilized for an office park. An apartment complex could generate 6.65 ADT per dwelling unit. Assuming 24 units per acre the property could contain 120 dwelling units this could lead to 798 ADT. Given the wide range of uses the property could be utilized for it is hard to determine the exact ADT generated by the proposal.

Because the property is located along a four lane, state maintained highway and a two lane county collector and MDT and the Flathead County Road and Bridge Department have no comments on the proposal impacts on transportation should be minimal.

The property is currently served by onsite septic and well. It is possible that development of this property would require public water and sewer. If the property was subdivided in the future, review would be require from the Flathead City-County Environmental Health and Montana Department of Environmental Quality.

The subject property is located within the Kalispell and Flathead School Districts. Kalispell Elementary Schools have seen an increase of 13% in student enrollment over the last ten years and increase of 2% between the 2017 and 2018 school years. The Flathead High School District has increased 9% in student enrollment over the

last ten years and a decrease of 1% between 2017 and 2018. The school districts did not provide comment regarding this proposal. It is anticipated that the school would have capacity should any residential growth occur as a result of the proposed zoning map amendment.

The proposed amendment from SAG-10 to B-2 Community Business would reduce the 10-acre minimum lot size to 7,500 square feet it is anticipated subsequent future development would require review and park area required would be determined at that time. There are numerous parks, natural areas, and recreational opportunities accessible in the vicinity of the proposal.

Finding #4: The proposed amendment would appear to facilitate the adequate provision of transportation because primary access is off of Tronstad Road, a two lane county collector.

Finding #5: The proposed amendment would facilitate the adequate provision of water, sewerage, schools, parks, and other public requirements because the further division of land or a change of use would require review through the Flathead City-County Health Department and the Montana Department of Environmental Quality and future development would require possible subdivision review.

3. In evaluating the proposed map amendment, consideration shall be given to:

a. The reasonable provision of adequate light and air;

While the proposed zoning map amendment has the potential to increase development density on the subject property, any additional lots created would be required to meet the bulk and dimensional requirements of the B-2 zoning classification.

The bulk and dimensional requirements for the proposed B-2 zone are not similar to the bulk and dimensional requirements for the existing SAG-10. The proposed B-2 zoning sets permitted lot coverage is not applicable and there is a 7,500 square foot minimum lot size. The proposed zoning map amendment has the potential to increase development density on the subject property. The minimum setback requirements in the B-2 are 20 feet for the front, and side-corner yards, 5 feet for side yards and 15 feet for rear yards. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 10 foot setback is required from county roads classified as collector or major/minor arterials. These bulk and dimensional requirements within the B-2 designation have been established to ensure a reasonable provision of light and air.

Finding #6: The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional requirements of the B-2 designation.

b. The effect on motorized and non-motorized transportation systems;

The property is located at the intersection of Tronstad Road and Highway 93 with primary access to the property is off Tronstad. Tronstad Road is a two lane county collector within a 60 foot easement. There are no recent traffic counts for Tronstad Road. Highway 93 is a 4-lane paved highway with a 200 plus foot easement. The

average daily traffic along Highway 93 near the subject property in 2017 was 15,654.

Staff utilized the Institute of Transportation Engineers Trip Generation Manual to determine the average daily trip (ADT) generation for the commercial uses. According to the Trip Manual the average trip generation rate on a Saturday for hotel is 8.17 trips per occupied hotel room (Saturday would generate the most traffic). A hotel estimating roughly 40 units, would account for an ADT of approximately 327. An office park could generate 195.11 ADT per acre. The proposal could generate 942 ADT if all 4.83 acres are utilized for an office park. An apartment complex could generate 6.65 ADT per dwelling unit. Assuming 24 units per acre the property could contain 120 dwelling units this could lead to 798 ADT. Given the wide range of uses the property could be utilized for it is hard to determine the exact ADT generated by the proposal.

Because the property is located along a four lane, state maintained highway and a two lane county collector and MDT and the Flathead County Road and Bridge Department have no comments on the proposal effects on motorized transportation should be minimal.

The Flathead County Trails Plan identifies Highway 93 as an arterial bike/pedestrian trail. It is anticipated that there will be minimal impact on non-motorized traffic because future development (either through subdivision or site plan review) of the property would require an easement for a bicycle trail along Highway 93.

Finding #7: Effects on motorized and non-motorized transportation systems will be minimal because primary access is via Tronstad Road a two lane county collector and there appears to be adequate space for a future bike/pedestrian easement along Highway 93.

c. Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);

The subject property is located within the Kalispell Growth Policy Map, annexation policy boundary and adjacent to the Kalispell City limits. The City of Kalispell Growth Policy designated the property as '*Suburban Residential*.'

The '*Suburban Residential*' is defined in the Kalispell Growth Policy as, "*Low-density residential (suburban) neighborhoods should be developed at a density that does not exceed 4 dwelling units per acre on an overall site basis.*" The proposal for B-2 would allow for commercial development and residential development at a density greater than 4 dwelling units per acre.

Finding #8: The proposal does not appear to be compatibility the City of Kalispell's urban growth because the City designates the property '*Suburban Residential*' and the proposed zoning would allow for residential development that exceeds 4 dwelling units per acre and commercial development.

d. The character of the district(s) and its peculiar suitability for particular uses;

The character of the district and its peculiar suitability for particular uses can best be addressed using the “

three part test” established for spot zoning by legal precedent in the case of *Little v. Board of County Commissioners*. Spot zoning is described as a provision of a general plan (i.e. Growth Policy, Neighborhood Plan or Zoning District) creating a zone which benefits one or more parcels that is different from the uses allowed on surrounding properties in the area. Below is a review of the three-part test in relation to this application and the character of the district and its peculiar suitability for particular uses.

i. ***The zoning allows a use that differs significantly from the prevailing use in the area.***

The character of the overall zoning in the area is suburban agricultural with the majority of the property in the area zoned SAG-10 and SAG-5. Within a quarter of a mile of the property is business uses, rural residential and a mixed use subdivision within the City of Kalispell.

The B-1 zones along the Highway allow for neighborhood/professional business at a smaller scale than what is permitted in the B-2 zone. Many of the uses allowed in B-2 are permitted in the previously adopted B-3 zoning to the south.

ii. ***The zoning applies to a small area or benefits a small number of separate landowners.***

The zoning map amendment would apply to one tract of land which is owned by one landowner. Using standard ArcGIS software staff was able to determine the subject property is located within SAG-10 zoned area approximately 434 acres in size. The SAG-5 zoning to the east is approximately 1,445 acres and the SAG-10 to west is approximately 40 acres. Also in the vicinity of the property is B-1 zoning to both to the north and south, approximately 6.39 acres and 3.27 acres respectively and the recently approved 5 acre B-3/HO to the south. Other zoning districts in the area range in size from 4.45 acres to approximately 200 acres.

Although the property is 4.83 acres in size, the new B-2 zoning designation would be similar in size to the two B-1 zones and the B-3/HO zone located near the subject property along U.S. Highway 93.

iii. ***The zoning is designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public and, thus, is in the nature of special legislation.***

The proposed B-2 zone would allow for commercial development such as hotels, banks, restaurants and professional office and would also allow for duplexes, multi-family and resort dwellings. As previously stated, there is a mixture of uses and zoning in the area along Highway 93. Even though the proposed zoning would be for one land owner and one tract it does not appear to be at the expense of the surrounding landowners.

Finding #9: The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because approval would not be at the expense of other landowners, there is a mixture of uses

and zoning in the area along Highway 93 and other zoning districts in the vicinity are similarly sized.

e. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

The property is located within the Highway 93 North Zoning District, which is a 12,780-acre zoning district that covers much of the area between Whitefish and Kalispell. Looking at the zoning within a half mile of the subject property and further north and south along Highway 93 the character of the Highway 93 corridor is a mixture of suburban agricultural, highway industrial, commercial, highway overlay and residential zoning. The property is located along Highway 93 and directly adjacent to the property is generally rural residential and agricultural which are zoned SAG-10 and City R-2/PUD.

To the south along the highway is B-3/HO and B-1 zoning. The B-1 zoned properties have a couple of businesses and the B-3/HO is currently undeveloped but was recently approved for a zone change. The City of Kalispell extends passed Tronstadt Road to Church Drive, approximately three-quarters of a mile north of the property (Silverbrook Subdivision). The zoning within the Silverbrook Subdivision is a mixture of B-1/PUD at the corner of Church and Highway 93 and R-4/PUD and R-2/PUD. Because there is a mixture of uses in the area, the proposed zone change would likely conserve the value of buildings and encourage the most appropriate use of land throughout the jurisdictional area.

Finding #10: This proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this location because the area already contains a variety of uses.

4. Whether the proposed map amendment will make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.

As previously stated, the subject property is located within the Kalispell Growth Policy Map, annexation policy boundary and adjacent to the Kalispell City limits. The closest properties within the City of Kalispell are zoned R-2, R-2/PUD and R-3/PUD. The City's R-2 and R-3 zones are residential in nature both allow for attached townhomes with a conditional use permit but neither allows for commercial uses typical of the County's B-2 zoning. The nearest business zones within the City of Kalispell is B-1/PUD to the north and B-2/PUD to the south. The proposed B-2 zone would be more compatible with the City's business zones than the neighboring residential zones.

Finding #11: The proposal appears to be compatible with the City of Kalispell's zoning because the nearest City business zones allow for similar uses to the proposed B-2, and the B-2 allows for multi-family residential similar to the nearest City zoning.

V. SUMMARY OF FINDINGS

1. The proposed zoning map amendment appears to be made in accordance with the Flathead County Growth Policy because it will provide additional land area designated for

commercial use, and allow for commercial development in an area with good access off Highway 93 via Tronstad Road.

2. The proposed map amendment will not impact safety from fire and other danger because the property is not located in the WUI and is located approximately 1.4 road miles from the nearest fire station within the West Valley Fire District, is located on a U.S. Highway and county collector and not located within the 100 year floodplain.
3. The proposed zoning map amendment appears to have minimal negative impacts on public health, safety and general welfare because the property is served by the West Valley Fire Department, Flathead County Sheriff and future development would comply with the permitted and conditional uses in the B-2 zone.
4. The proposed amendment would appear to facilitate the adequate provision of transportation because primary access is off of Tronstad Road, a two lane county collector.
5. The proposed amendment would facilitate the adequate provision of water, sewerage, schools, parks, and other public requirements because the further division of land or a change of use would require review through the Flathead City-County Health Department and the Montana Department of Environmental Quality and future development would require possible subdivision review.
6. The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional requirements of the B-2 designation.
7. Effects on motorized and non-motorized transportation systems will be minimal because primary access is via Tronstad Road a two lane county collector and there appears to be adequate space for a future bike/pedestrian easement along Highway 93.
8. The proposal does not appear to be compatibility the City of Kalispell's urban growth because the City designates the property '*Suburban Residential*' and the proposed zoning would allow for residential development that exceeds 4 dwelling units per acre and commercial development.
9. The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because approval would not be at the expense of other landowners, there is a mixture of uses and zoning in the area along Highway 93 and other zoning districts in the vicinity are similarly sized.
10. This proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this location because the area already contains a variety of uses.
11. The proposal appears to be compatibility the City of Kalispell's zoning because the nearest City business zones allow for similar uses to the proposed B-2, and the B-2 allows for multi-family residential similar to the nearest City zoning.

VI. CONCLUSION

Per Section 2.08.020(4) of the Flathead County Zoning Regulations (FCZR), a review and evaluation by the staff of the Planning Board comparing the proposed zoning map amendment to the criteria for evaluation of amendment requests found in Section 2.08.040 FCZR has found the proposal generally complies with the review criteria, based upon the draft Findings of Fact

presented above. Section 2.08.040 does not require compliance with all criteria for evaluation, only that the Planning Board and County Commissioners should be guided by the criteria.

Planner: EKM